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ENERGIZER HOLDINGS, INC.

*[Additional Attorneys Listed In Signature Block]*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

DON COPELAND, JOSEPH MURRAY,  
CAROL SMITH, PATRICK WHITNEY,  
PHILLIP HAGUE, DENISE FOTIS,  
ROXANN DORIOTT, BRUCE MIMS,  
LORI ABLY, TIMOTHY BROWN,  
PETER COSTAS, AND MIKE BALLARD,  
on behalf of themselves and those similarly  
situated,

Plaintiffs,

v.

ENERGIZER HOLDINGS, INC.; AND  
WAL-MART, INC.,

Defendants.

CASE NO. 4:23-CV-02087-HSG

**STIPULATION AND ORDER  
REGARDING BRIEFING SCHEDULE**

*[Caption Continues on Following Page]*

1 PORTABLE POWER, INC., on behalf of itself  
2 and those similarly situated,

3 Plaintiffs,

4 v.

5 ENERGIZER HOLDINGS, INC.; AND  
6 WAL-MART, INC.,

Defendants.

CASE NO. 4:23-CV-02091-HSG

7 KIMBERLY SCHUMAN and KYLE KELLEY,  
8 on behalf of themselves and those similarly  
situated,

9 Plaintiffs,

10 v.

11 ENERGIZER HOLDINGS, INC.; AND  
12 WAL-MART, INC.,

13 Defendants.

CASE NO. 4:23-CV-02093-HSG

Pursuant to Civil Local Rule 7-12, Plaintiffs Don Copeland, Joseph Murray, Carol Smith, Patrick Whitney, Phillip Hague, Denise Fotis, Roxann Doriott, Bruce Mims, Lori Ably, Timothy Brown, Peter Costas, and Mike Ballard, on behalf of themselves and those similarly situated (the “*Copeland* Plaintiffs”), Portable Power, Inc., on behalf of itself and those similarly situated (“Portable Power”), and Kimberly Schuman and Kyle Kelley, on behalf of themselves and those similarly situated (the “Schuman Plaintiffs” and together with the *Copeland* Plaintiffs and Portable Power, “Plaintiffs”), Defendant Energizer Holdings, Inc. (“Energizer”), and Defendant Walmart Inc. (“Walmart” and together with Energizer, “Defendants”), by and through their undersigned counsel of record, hereby stipulate as follows:

WHEREAS, Plaintiffs filed their complaints against Defendants on April 28, 2023;<sup>1</sup>

WHEREAS, the Court granted Plaintiffs’ Joint Administrative Motion to Consider Whether Cases Should Be Related on May 23, 2023;<sup>2</sup>

WHEREAS, Case Nos. 23-CV-02091 and 23-CV-02093 were reassigned to this Court on May 23, 2023;<sup>3</sup>

WHEREAS, the parties previously stipulated pursuant to Civil Local Rule 6-1(a) to extend the deadline for Defendants to respond to the complaints in each of the above-captioned actions to July 31, 2023;<sup>4</sup>

WHEREAS, Defendants intend to move to dismiss all three complaints;

WHEREAS, the parties have conferred and agreed, in the interest of efficiency and judicial economy and subject to the Court’s approval, that Defendants will file a single joint motion to dismiss all three complaints (“Motion to Dismiss”), followed by a single joint opposition brief by Plaintiffs and a single joint reply brief by Defendants;

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<sup>1</sup> Case Nos. 23-CV-02087, ECF No. 1; 23-CV-02091, ECF No. 1; 23-CV-02093, ECF No. 1.

<sup>2</sup> Case No. 23-CV-02087, ECF No. 22.

<sup>3</sup> Case Nos. 23-CV-02091, ECF No. 12; 23-CV-02093, ECF No. 16.

<sup>4</sup> Case Nos. 23-CV-02087, ECF No. 56; 23-CV-02091, ECF No. 35; 23-CV-02093, ECF No. 39.

WHEREAS, the parties have conferred and agreed to a schedule for briefing and page limits for Defendants' anticipated Motion to Dismiss;

NOW, THEREFORE, Plaintiffs and Defendants have agreed to, and respectively submit for approval by the Court, the following schedule and page limits for Defendants' Motion to Dismiss:

1. Defendants will jointly file one, consolidated Motion to Dismiss by July 31, 2023, not to exceed 40 pages of text in length, inclusive of any appendix.
2. Plaintiffs will jointly file one, consolidated opposition to the Motion to Dismiss by September 14, 2023, not to exceed 50 pages of text in length, inclusive of any appendix.
3. Defendants will jointly file one, consolidated reply to the opposition to the Motion to Dismiss by October 16, 2023, not to exceed 30 pages of text in length, inclusive of any appendix.

**IT IS SO STIPULATED.**

Dated: July 12, 2023

GIBSON, DUNN & CRUTCHER LLP

By: /s/ Samuel G. Liversidge  
Samuel G. Liversidge

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Attorneys for Defendant  
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1 Dated: July 12, 2023

Respectfully submitted,

2 By: /s/ Kyla J. Gibboney

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23 *Attorneys for Plaintiff Portable Power, Inc.;*  
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*Kyle Kelley, and the Proposed Direct*  
*Purchaser Classes*

26 Dated: July 12, 2023

Respectfully submitted,

27 /s/ Daniel H. Silverman

28 Daniel H. Silverman (*pro hac vice*)

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**ECF ATTESTATION**

Pursuant to Civil Local Rule 5-1(h)(3), I attest that the concurrence in the filing of this document has been obtained from all other signatories.

Dated: July 12, 2023

/s/ Samuel G. Liversidge

\* \* \* \* \*

**ORDER**

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 7/13/2023



Hon. Haywood S. Gilliam, Jr.  
United States District Judge